



State of Utah

GARY R. HERBERT

Governor

SPENCER J. COX

Lieutenant Governor

TODD E. KISER

Commissioner

Insurance Department

State of Utah Title & Escrow Commission Meeting Meeting Information

Date: December 11, 2018

Time: 9AM

Place: East Building, Copper Room

MEMBERS

COMMISSION MEMBERS

xChair, Alison McCoy (Agency, Tooele County) xNancy Frandsen (Insurer, Salt Lake County)
xVice Chair, David Moore (Agency, Salt Lake County) xJames Swan (Insurer, Salt Lake County)
xRandy Smart (Public Member, Salt Lake County)

DEPARTMENT STAFF

xTodd Kiser, <i>Ins. Commissioner</i>	Brett Barratt, <i>Deputy Comm.</i>	xPerri Babalis, <i>AG Counsel - TEC</i>
xSuzette Green-Wright, <i>MC Dir.</i>	xRandy Overstreet, <i>Licensing Dir.</i>	xReed Stringham, <i>AG Counsel - UID</i>
Adam Martin, <i>Examiner</i>	Tanna Shurtliff, <i>Examiner</i>	Lisa Watts Baskin, <i>ALJ</i>
xSteve Gooch, <i>PIO Recorder</i>	xCherrie Roberts, <i>Notary</i>	xMichael Covington, <i>Licensing Spec.</i>

PUBLIC

Tim Krueger	Frank Medina	Carol Yamamoto
Tim Grubb	Lisa Watts Baskin	Wes Jensen [PHONE]
James Seaman [PHONE]	Matt Ryden [PHONE]	Jeff Wiener [PHONE]
Joseph McPhie [PHONE]		

MINUTES — *Approved*

General Session: (Open to the Public)

- **Welcome** / Alison McCoy, Chair (9:01 AM)
- **Telephone Roll Call**
- **Induct new commissioner** / Cherrie Roberts, Notary
 - Randy Smart
- **Adopt Minutes of Previous Meeting**
 - David requests a correction on page 4, second line from the bottom under Hot Topics: David instructed "escrow officers" not underwriters.
 - **Motion by Nancy to adopt minutes. Seconded by James. Motion passes 4-0.**
- **Reports**
 - Concur with Licensee Report / Suzette
 - There were no reinstated, lapsed or new agency licenses.
 - There were some new and a few lapsed agents. The lapses may fix themselves by the end of the month, but they were not done by the time the report was run.
 - Concur with Complaint & Enforcement Report / Suzette
 - There are a few more open cases than there were last month. Market Conduct is still working on getting responses on alleged unlicensed activity, which can take 4 or 5 weeks.
 - There are a few closed cases.
 - They're working on a cohabitation by working with them to fix the issue rather than fining them. A lot of times it's just a door between offices. If that door is locked, it solves the problem.
 - **Motion by David to concur with the Complaint & Enforcement and Licensee reports. Seconded by Nancy. Motion passes 4-0.**

- Request for Dual Licensee Expedited Request: None
- Request for Attorney Exemption: None
- **Administrative Proceedings Action** / Lisa Watts Baskin, ALJ
 - Stipulation and Order: None
 - Order to Show Cause: None
 - Informal Adjudicative Proceeding and Order: None
 - Notice of Formal Adjudicative Proceeding: None
- **Board Duties & Responsibilities** / Perri
- **Update on 2018 Goals** / Alison
 - Alison asked Nancy to be the liaison between the TEC and the Division of Real Estate. She will report back on anything she hears from them.
 - James went to the County Recorders Association of Utah's convention in St. George. He was on a panel discussion on the topic of certifications required when a title company submits a document for recording through an e-vendor. The issue is that the current certification is only required in Utah and one other state.
 - As written, the certification doesn't accurately reflect reality. It talks about executed paper documents that have been converted into electronic format and creating an "original electronic document." In the electronic world, there is no such thing as an "original," aside from a transferrable document. Utah Code doesn't say a document has to be an original to be recorded; it says it has to be an original or an electronic document. Currently, e-vendors scan in an image of the document and the image is recorded and certified as an electronic document. However, it doesn't create an electronic document, so it's not true to reality. The certification doesn't allow for recording a native electronic document that was never in paper form.
 - Many people are looking to close transactions fully electronically, including deeds and deeds of trust. The problem is that the certification says there's a paper document that is being converted to electronic, but that's not the case if it's a fully native digital closing.
 - The county recorders and attorneys at the meeting were supportive of revising the certification in the short term. James will be writing a draft of the revised certification that will be circulated among the county recorders and attorneys.
 - There was a lot of discussion at the meeting about having a certification for each transaction might be a little much, and couldn't there be a master certification for the company. Everyone is concerned that an electronic version should be a complete, unaltered copy or image of the document.
 - In the long run, it appears that most counties will have MOUs that certify documents, but the short term will be a revised certification.
 - Randy Smart asks if there will be confusion if some counties have the blanket certificate and some don't. David says likely not. All counties are different anyway, so the title companies have to know the differences and adapt to what each county does.
 - James was pleasantly surprised that there was near-universal interest in a blanket certification. He thinks there will be more people moving in this direction than he expected.
- **New Business**
 - Recognize Sylvia Andersen / Commissioner Kiser
 - Commissioner Kiser thanks Sylvia for her service on the Title & Escrow Commission. She has been a strong advocate for representing the little guys and doing the right thing.
 - Sylvia thanks the TEC for being able to serve. She appreciates the growth and learning she has experienced during her tenure. She loves that the TEC has a member of the community, not just the industry. That POV needs to be represented, someone who has the public's best interests at heart.
 - Alison thanks Sylvia for her service and says she appreciated her comments and perspective.
 - Agency contract cancellations / David

- David saw an article in *Insurance Business* that was about a trend happening in North Carolina. Blue Ridge Title Company had been an agent for Commonwealth for 13 months, but then was cancelled. After that, Blue Ridge operated for 18 months for an unlicensed, unauthorized title agent and sold thousands of title policies.
- There's a bulletin in Utah that says when an agent winds down their business, they have to tell the UID where the files are so people can access it in the future. David would like to see the UID issue a bulletin that says when an agent is terminated for whatever reason, they have to notify the UID. We can't have a canceled agent that continues to function. Then the UID can make sure the agent has a new agency contract or is closed and isn't harming consumers.
- Alison asks how people are currently notified if an insurer cancels an agent. Suzette says appointments are terminated in Sircon, but she isn't notified until someone files a complaint. Randy O. says if an individual's designation to a title agency is terminated, both the agency and individual are notified. If an individual or agency is appointed to an insurer and that appointment is terminated, the insurer and licensee are notified.
- Nancy says Sircon is good about letting underwriters know when a licensee is appointed or terminated, but asks if they also notify the state. Randy O. says if an underwriter terminates an appointment, the state is notified — they're required to by 31A-23a-115. They also have to notify the producer, and why they were terminated. Randy O. notes that this is only if the termination was for cause; if they just decide to part ways, the notification isn't required.
- Nancy says if she's the only underwriter an agent works with, she's much more involved after a termination and often helps them wind down their business. But for the most part, if she cancels an appointment they usually also have 1-2 other underwriters.
- David's concern is having someone's appointment cancelled, but the UID not finding them. Suzette says her people look at agents monthly and follow up on lapsed licenses, especially. They look to see if the licensee has reinstated and if they have, they look to see if they're appointed with an agency.
- Nancy thinks the situation David is discussing is a bit of an anomaly. If an insurer is terminating an agent, and they have no other underwriter, then they shouldn't be doing business. She says the terminating insurer should make sure the files are moved appropriately. David says he was hoping for some communication from the UID regarding a cancelled appointment. Randy O. says there is: If an agent is cancelled for cause, the UID is notified. However, there's no way to look at all licensees to see if they're doing something they're not legally allowed to do, unless it comes to the UID's attention.
- Jeff notes that the UID's website has an alert on the website that shows when a licensee is inactive. There have been a few times where he has worked with the UID to move a license from active to inactive. It is the best way for a consumer to verify whether a license is active.
- Alison says the TEC's job is to notify the UID of red flags in the industry. She asks that the UID look out for this topic in the future, and let the TEC know if anything arises.
- Nancy says that when insurers terminate people with closing protection letters out, they make sure to notify the lenders.
- Carol says she worked for a title company that was terminated by Old Republic, but the employees of the company had no idea for a while. She wonders what should happen in a case like that. David says his concern is having one of the companies shut down in the middle of a split closing.
- **Old Business**
 - Discuss amendments to R590-142-4 or R592-7 re: no more than ½ CE be from one insurer / James
 - James' draft amendments expand the scope of the rule, fix a typo, add R592-7-6, and fix numbering.
 - At the last meeting, there was concern that title licensees were getting CE hours from sources that unrelated to title insurance. This rule helps deal with that. James received two comments on the section about restricting hours to title topics: One suggested having all CE hours be title-related

- and the other liked the 3 hour requirement because it allows flexibility especially with respect to ethics credits. Randy Overstreet notes that there is a requirement that licensees take 3 hours of ethics. Is the intent that those 3 hours be excluded for ethics? James says the 3 hours just happens to correspond to ethics. The point isn't to say that those 3 hours can be obtained by unapproved sources, it just allows hours from approved sources that aren't title-related. Right now there is no restriction. As long as it's approved by the UID, they're valid hours.
- Michael Covington says there are two types of ethics: title ethics and regular ethics. Title ethics has more title-specific topics in it, while regular ethics is all ethics topics. They don't function the same and there may be issues with incorporating flexibility into Sircon.
 - Randy O. says the Producer Licensing Model Act gives uniformity standards which requires 24 hours of CE, of which 3 have to be ethics. However, title isn't subject to the PLMA requirements. That's why title is only required to have 12 hours instead of 24. It would be hard for Sircon to set up the system to require all CE classes to be title. Michael says the title license could be set up for title, title escrow, and ethics, but they can't set hour requirements for each of those. James says it sounds like tweaking the rule to require all hours from title except ethics would work with Sircon. Michael says yes.
 - Nancy says states like Montana require 24 CE hours in 24 months, which could be difficult to get, but where Utah only requires 12 hours in 24 months, it shouldn't be too hard to get 9 hours of title and 3 hours of ethics.
 - David suggests changing (2) in the rule to specify ethics hours.
 - James asks if there's any feedback on (1) which says courses could be provided by one or more insurers. Commissioner Kiser thanks James for his work and says he would like the UID to look at it. This change would represent a carve-out within a carve-out. There are concerns within the UID about what flexibility the UID should allow. He would like to have his team review it. We want to be sure we don't bring something into state law that Sircon can't do. We also don't want to create too much of a carve-out for title.
 - James will send an updated version of the rule that incorporates the comments from today.
 - Michael notes that a sliding percentage won't work within Sircon either. They can only do 50% or 100%.
 - David says there are a lot of CE companies out there, and while underwriters can provide all of them, there are plenty of other places to get CE. He notes that R592-7-2(1)(a) requires that courses should be brought to the TEC for final approval. He can't remember that ever happening. The approval is delegated to the UID, but do we want to have the TEC approve all CE?
 - Michael says the rule requires 30 days' notice for approval. She rarely sticks to that because she tries to help the agent as much as possible. Having the TEC do final approvals would remove that luxury. David thinks that should be addressed in the rule then. Michael says if she's not certain about whether a course meets title requirements, she will have Adam Martin review them to make sure they're OK. David says that's fine, but the provisional approval process has not been happening.
 - Randy O. suggests fixing "programs" in R592-7-2 to instead be "courses."
 - James says brings attention back to R592-7-6 and the carve out from the carve out — there's a reference in R590-142-4(2)(e), which includes other professional designations. He doesn't think they're related but he didn't want to disrupt other designations or licenses, and wants to make sure this is narrowly applied.
 - David notes that the changes in R592-7-6 modify a UID rule. He asks Perri if the TEC have that power. Alison notes that in the last meeting, they realized the change could happen to either rule, so they decided to do it under R592. Perri says the UID might need to amend R590-142 to reference R592-7. David just wants to make sure the changes are on solid legal ground.
 - Suzette says that the TEC delegates approval of course providers and courses to the UID. David agrees and says that provision should be removed to let Michael do her job. Suzette suggests that

if a course arises that the UID hasn't seen before, it should be run past the TEC to determine whether it's pertinent.

- Nancy says she thinks R592-7-2(b) should just be removed. Everyone agrees.
- Lender instructions for late or incorrect policies / David
 - David believes that the first of the two paragraphs discussed last month falls under first-lien letters. There's a bulletin that an agent can't sign a first-lien letter, which is important because insuring is an underwriter provision. The second paragraph that adds fines and penalties is also an underwriter responsibility, not an agent's. The underwriter issues the policy, not the agent. He suggests modifying the bulletin from a few years back to say agents should not sign anything that puts liability on the underwriter.
 - Alison got a paper in a package just this month that asked to tie a notary to the settlement agent. She had concerns about it, and notes that there is concern out there. David would like to look at the bulletin to see if we need to add a paragraph or statement.
 - Nancy says that when these sorts of things come up, she has instructed agents to not sign it and the insurer won't either. The agents seem to have accepted it.
 - David thinks having something from the UID saying agents can't sign would be helpful in not blowing a deal. Alison agrees.
- **Other Business**
- **Hot Topics**

Executive Session (None)

- **Adjourn** (10:19 AM)
 - **Motion by James to adjourn. Seconded by David. Motion passes 4-0.**
- **Next Meeting: January 8, 2018** — Copper Room

2018 Meeting Schedule in Copper Room

Jan 8	Feb 12 (<i>Aspen</i>)	Mar 12	Apr 9	May 14	Jun 11
Jul 9	Aug 13	Sept 10	Oct 1	Nov 5	Dec 10